

S U M M A R Y

The Industrial Telecommunications Association, Inc. (ITA) and the Council of Independent Communication Suppliers (CICS) hereby petition the Federal Communications Commission to institute a program for FCC licensing of personnel engaged in installing or servicing radio facilities operating on frequencies allocated to the Private Land Mobile Radio Services.

The collective experience of the members of ITA and CICS suggests that there is a significant level of unlicensed radio operations on the frequencies allocated to the Private Land Mobile Radio Services. ITA and CICS believe that one of the biggest reasons for this level of unlicensed activity is the fact that personnel who install and repair land mobile radio equipment are sometimes remiss in not informing radio users of the requirement to obtain a station license from the Commission. In the experience of the members of ITA and CICS, some service personnel either tolerate or encourage unlicensed radio operation by their customers.

The Petitioners believe that one part of the overall effort to combat unlicensed operations is to institute a program under which the FCC would license maintenance and service personnel who work on

private land mobile radio facilities. If the FCC makes licensing mandatory for all individuals who install or service transmitters operating on private land mobile radio frequencies, these individuals will have a license to "protect". This would create a heightened sensitivity to FCC operating requirements and provide a strong incentive for maintenance and service personnel to apprise their customers of the FCC's licensing requirement.

The technician licensing program advocated in this Petition would be relatively simple to institute and, for most maintenance and service personnel, would require only a one-time expenditure by the Commission. Moreover, the proposed licensing requirement would not detract from the technician certification programs that have been established in accordance with Section 90.433(c). These programs would continue to serve a valid purpose.

In this Petition, ITA and CICS request the Commission to establish a new class of lifetime commercial radio operator license referred to as the "PLMRS Radio Maintainer's License". The Petitioners also propose specific rule changes designed to implement the PLMRS Radio Maintainer's License.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Instituting a Simplified) RM-_____
Program for Licensing)
Personnel Engaged in the)
Installation, Servicing)
and Maintenance of)
Radio Systems Designed to)
Operate on Private)
Land Mobile Radio Service)
Frequency Bands)

To: The Commission

PETITION FOR RULE MAKING
OF THE
INDUSTRIAL TELECOMMUNICATIONS ASSOCIATION, INC.
AND
COUNCIL OF INDEPENDENT COMMUNICATION SUPPLIERS

The Industrial Telecommunications Association, Inc. ("ITA") and the Council of Independent Communication Suppliers ("CICS"), pursuant to Section 1.401 of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission"), hereby respectfully submit this Petition for Rule Making seeking to institute a program for FCC licensing of personnel engaged in installing or servicing radio facilities operating on frequencies allocated to the Private Land Mobile Radio Services (PLMRS).

I. PRELIMINARY STATEMENT

1. ITA, formerly the Special Industrial Radio Service Association, Inc. (SIRSA), is an association organized under the laws of the District of Columbia. ITA is the Commission's

certified frequency coordinator for the Special Industrial Radio Service and the Industrial/Land Transportation 421-430 MHz and 800/900 MHz frequency pools. ITA also coordinates channels from the 800 MHz General Category Pool for those entities: (a) eligible to become Industrial/Land Transportation licensees; (b) wishing to expand trunked systems; or (c) consolidating conventional systems into a trunked system. ITA coordinates in excess of 6,000 applications per year on behalf of applicants seeking Commission authority to operate radio stations on frequency assignments allocated to the Special Industrial Radio Service and the enumerated 800/900 MHz frequency pools.

2. ITA enjoys the support of a membership that includes more than 8,600 licensed two-way land mobile radio communications users and the following trade associations:

- Alliance of Motion Picture and Television Producers
- American Mining Congress
- Associated Builders & Contractors, Inc.
- Florida Citrus Processors Association
- Florida Fruit & Vegetable Association
- National Aggregates Association
- National Agricultural Aviation Association
- National Food Processors Association
- National Propane Gas Association
- National Ready-Mixed Concrete Association
- National Utility Contractors Association
- New England Fuel Institute
- United States Telephone Association

3. CICS is an unincorporated association of entities engaged in serving the needs of private radio eligibles, particularly those located in small and rural communities throughout the United

States. CICS' membership is open to SMR operators, radio dealers, equipment suppliers, communications engineers and consultants. CICS was formed to provide these entities a voice in the policy-making process governing use of the electromagnetic spectrum, especially spectrum allocated to the Private Land Mobile Radio Services. CICS is an independent market council of ITA.

II. BACKGROUND

4. Prior to 1984, persons having responsibility for the installation, service or maintenance of transmitters used in the Private Land Mobile Radio Services were required to hold a valid commercial radio operator's license issued by the Commission. In 1984, the FCC eliminated this requirement.¹

5. The Commission's decision to eliminate the licensing requirement for radio technicians engaged in the installation, service or maintenance of Part 90 stations was motivated by three basic factors: first, elimination of licensing would conserve FCC administrative funds previously expended to issue licenses and maintain the FCC's examination program; second, elimination of licensing would free the Commission of the responsibility for updating the technician examination to reflect technological developments; and, third, industry certification programs could provide an effective standard for measuring technical ability.

¹ Report and Order, Gen. Docket No. 83-322, adopted February 24, 1984, 96 F.C.C.2d 1123.

6. When the Commission proposed to eliminate the commercial operating licensing requirement, it received more than 200 formal and informal comments and reply comments.² There was "overwhelming opposition to the Commission's proposals with respect to the Private Radio Services."³ Indeed, the Commission found that "almost every single comment filed in this proceeding specifically addressed and vigorously opposed" eliminating the licensing of commercial radio operators in the Private Radio Services.⁴

7. A decade has now passed since the Commission's decision to eliminate the technician licensing requirement in the private radio services. During these ten years, the FCC has taken measures to encourage the "privatization" of commercial radio operator examinations in the private radio services. At the same time, although there are no objective measures, the level of unlicensed operation of transmitters on the frequencies allocated to the Private Land Mobile Radio Services has, by all accounts, increased significantly.

8. A number of the parties filing comments in Gen. Docket No. 83-322 cautioned the Commission that there would inevitably be adverse consequences resulting from elimination of commercial radio operator licensing in the private radio services. One such

² Id. at 1125.

³ Id. at 1135.

⁴ Id. at 1129.

commenter, the National Association of Broadcasters, succinctly stated its concerns as follows:

[I]n certain private radio services, marketplace forces may militate against compliance with the Commission's technical standards. To abandon the licensing requirements in these services is an invitation for the unqualified--and unscrupulous--to profit by providing inept and unlawful equipment adjustments for persons who cannot reasonably be expected to know whether the adjustments are lawful or unlawful.⁵

9. ITA and CICS wish to make it clear that the vast majority of individuals engaged in selling, installing and servicing radio systems in the Private Land Mobile Radio Services are neither unscrupulous nor unqualified. In the Petitioners' experience, most maintenance and service personnel resist the "marketplace forces" feared by the National Association of Broadcasters.

10. Nonetheless, the available evidence and anecdotal information suggest that the number of unlicensed systems in

⁵ Comments of the National Association of Broadcasters, Gen. Docket No. 83-322, at 2-3.

operation on the private land mobile frequencies is significant.⁶
As Motorola noted in its comments in Gen. Docket No. 83-322,

there are literally thousands of private systems co-existing in an extremely limited amount of spectrum ... under the best of circumstances, when all licensees use Commission licensed technicians and endeavor to operate their systems in full compliance with the Commission's rules and regulations, interference problems arise because of the sheer volume of transmissions.⁷

The FCC's Report and Order notes that Motorola was concerned that "should even a small minority of users, because of a lack of technical expertise or desire to reduce expenses, employ unqualified technicians, the incidence of equipment-related interference problems would escalate sharply."⁸

⁶ Industry experts estimate that, in some states, unlicensed systems may account for as much as 30 percent of the total number of systems in operation on the private land mobile frequency bands below 800 MHz. Users are able to purchase radios capable of operating in the private radio bands from department store chains or order them from catalogs and mail order warehouses. Unless individuals responsible for installing and servicing the radios inform the buyers of the licensing requirement, many buyers are not aware that it is illegal to operate transmitters without first obtaining authority from the Commission.

⁷ Report and Order, Docket No. 83-322, 96 F.C.C.2d at 1130.

⁸ Id.

III. PROPOSAL

A. Need for Proposed Rule Change

11. The collective experiences of members of ITA and CICS over the past decade have validated the concerns expressed by Motorola, the National Association of Broadcasters and many of the more than 200 other commenters who participated in Docket No. 83-322. ITA recently conducted a survey among radio dealers and radio users who are either members of the Council of Independent Communication Suppliers or members of ITA's Government Affairs Committee.

12. Thirty-eight individuals responded to the survey. Of these 38 respondents, 31 individuals (82 percent) favored mandatory FCC licensing of technicians as a prerequisite for installing or servicing systems operating in the Private Land Mobile Radio Services. Twenty-nine of the 38 respondents (76 percent) maintained that licensing radio technicians would help to reduce the incidence of unlicensed operation on private land mobile frequencies.

13. ITA and CICS find that if there is to be an effective program to combat unlicensed operations, there must be three mutually supportive components: (1) an effective and adequately funded enforcement program at the FCC; (2) measures to ensure

technical competence among those responsible for maintaining and servicing the radio equipment; and (3) a reasonable incentive for maintenance and service personnel to inform users of FCC operating and licensing requirements.

14. Regarding the first element -- an effective enforcement program with an adequate Federal funding -- the Commission certainly has the expertise necessary to conduct an effective enforcement presence. To this point, the Commission's efforts have been limited primarily by a lack of funds and field personnel.⁹ As FCC efforts to implement spectrum auctions and regulatory fees generate greater revenues for the Government, there is reason to believe that Congress will appropriate more operating funds for the Commission. We trust, therefore, that the amount of attention devoted to enforcement levels will increase during the remainder of this decade.¹⁰

15. With respect to the second element -- promoting technical competence among service personnel -- the Petitioners believe that

⁹ The petitioners note that there are only 35 field offices operated by the FCC. In contrast, the Department of Agriculture, for example, operates at least one field office in virtually every county in the United States. Collectively, there are considerably more than 10,000 Department of Agriculture field offices throughout the country.

¹⁰ The petitioners believe that unlicensed operation of radios could frustrate many of the spectrum efficiency gains anticipated through the "refarming" proceeding. If the level of enforcement activity does not increase, it will significantly hamper the FCC's efforts to introduce "refarming" in the frequency bands below 800 MHz.

the private radio technician certification programs established pursuant to Section 90.433(c) of the FCC's rules provide a useful means of ensuring competence in cases where maintenance and service personnel truly care about adhering to FCC technical requirements. However, with these certification programs, there is no meaningful threat of FCC sanctions in situations where service personnel may encourage illegal radio activity. Individuals who promote illegal operations, assuming they went through the effort of obtaining certification in the first place, have no reason for concern that their certification might be revoked.

16. Accordingly, in the view of ITA and CICS, there is a need to create the third element, a bona fide incentive among radio maintenance and service personnel to comply with FCC regulations. There must also be an incentive for individuals to encourage their customers to comply with the FCC's rules. Instituting an FCC licensing requirement would create such incentives. As one of the respondents to our survey stated, if there is no licensing of maintenance and service personnel, these individuals are less inclined to concern themselves with the requirements for station licensing.

17. The direct link between technician licensing and station licensing has motivated ITA and CICS to file this Petition for Rule Making. The Petitioners request the FCC to begin a program for licensing of radio technicians responsible for the installation,

servicing and maintenance of radio systems operating on private land mobile frequencies. ITA and CICS strongly believe that instituting the proposed licensing requirement is necessary to discourage the activities of individuals who promote, either directly or indirectly, unlicensed operations on the private land mobile frequency bands.

18. Under present circumstances, the FCC has no effective leverage over maintenance and service personnel who may promote unlicensed operations. If the FCC makes licensing mandatory for all individuals who install or service transmitters operating on private land mobile radio frequencies, these individuals will have a license to "protect". In most cases, this will create a heightened sensitivity to FCC operating requirements. Even if the Commission never actually revokes or suspends a technician's license, the mere possibility of revocation or suspension provides a strong incentive for maintenance and service personnel to apprise their customers of the FCC's licensing requirement.

B. Content of Proposed Rule Change

19. The technician licensing program advocated in this Petition would be relatively simple to institute and would require, for most maintenance and service personnel, only a one-time expenditure by the Commission. Essentially, the FCC would amend Part 90, or its successor rule part, to require that:

All adjustments or tests during or coincident with the installation, servicing, or maintenance of the station should be performed by or under the immediate supervision and responsibility of a person who has been: (1) certified as technically qualified to perform transmitter installation, operation, maintenance, and repair duties in the private land mobile services and fixed services by an organization or committee representative of users in those services; and (2) licensed to perform transmitter installation, maintenance, and repair duties by the Commission in accordance with Part 13 of the rules.

C. Relationship to Section 90.433(c) Certification Programs

20. The licensing requirement would not, in any way, detract from the technician certification programs that have been established in accordance with Section 90.433(c). These programs would continue to serve a valid purpose in assessing the technical competence of maintenance and repair personnel. The proposed licensing requirement would complement the certification program by providing enhanced incentive for maintenance and service personnel to observe the letter and spirit of the FCC's station licensing and operating requirements.

D. The Proposed Technician Licensing Process

21. The Petitioners envision a two-step process: first, in accordance with Section 90.433(c), technicians would have to be certified as technically qualified to perform transmitter

installation, operation, maintenance, and repair duties by an organization or committee representative of users in the private land mobile services; and, second, after certification, technicians would have to apply to the Commission for licensing in accordance with Part 13 of the rules.

22. When applying for a Commission license, technicians could use the same application form, FCC Form 756, as currently required under Section 13.9 for most classes of commercial radio operator licenses. In terms of the license document to be issued, the Commission would have a couple of options. One option would be to issue a General Radiotelephone Operator License under Section 13.7(b)(4) of the rules. Another option would be to establish a new class of license to be modeled after the "GMDSS Radio Maintainer's License". The Petitioners believe the latter option is preferable and, therefore, have drafted the suggested rule revisions to reflect a new class of license under Section 13.7(b) referred to as the "PLMRS Radio Maintainer's License".

E. Term of Technician Licenses

23. We propose that the technician license be issued for a life-time term, as the Commission has chosen to do with the General Radiotelephone Operator Licenses.¹¹ There are no policy or

¹¹ Report and Order, Gen. Docket No. 83-322, 96 F.C.C.2d at 1139.

operational considerations that compel periodic renewal of the licenses and, therefore, no need to use FCC resources to process renewal applications. The technician licenses would continue to be valid indefinitely, so long as not revoked or suspended by the Commission.

F. Imposition of Application Fees

24. The Petitioners propose that the FCC treat applications for the Private Land Mobile Maintainer's License as feeable applications under Part 1, Subpart G, of the Commission's rules. In this way, the net cost of the proposed licensing program to U.S. taxpayers would be minimal.

G. Effect of Proposed Rule Change

25. The Petitioners believe the proposed rule amendments will stimulate changes, both tangible and intangible, that will benefit the future growth and maturity of the industry. First, as indicated above, maintenance and service personnel will now have an official FCC license to "protect". Most of these individuals, we believe, will make an extra effort to "protect" their licenses because the license will become an integral element of their business and/or qualification for employment. Second, as part of the extra effort to "protect" their licenses, most personnel will be inclined to explain, with precision, the FCC's licensing

requirements when dealing with customers. Third, FCC licensing will induce a heightened sense of professionalism among maintenance and service personnel, because their chosen vocation will be raised to a level warranting licensing by the FCC.

IV. CONCLUSION

26. For the reasons stated above, ITA and CICS respectfully request the Commission to initiate a rule making proceeding aimed at instituting a simplified technician licensing program for personnel responsible for the installation, servicing and maintenance of radio facilities designed to operate on frequencies allocated to the Private Land Mobile Radio Services. ITA and CICS believe that the simplified licensing program outlined above is administratively feasible, practical and beneficial to the public interest.

WHEREFORE, THE PREMISES CONSIDERED, the Industrial Telecommunications Association, Inc. and the Council of Independent Communication Suppliers respectfully submit this Petition for Rule Making and urge the Federal Communications Commission to proceed to place the Petition for Rule Making on Public Notice in accordance with Section 1.403 of the Commission's Rules and Regulations.

**INDUSTRIAL TELECOMMUNICATIONS
ASSOCIATION, INC.**

By: 

Mark E. Crosby
President and Managing
Director

**COUNCIL OF INDEPENDENT
COMMUNICATION SUPPLIERS**

By: 

Andrew Daskalakis
Chairman

Prepared by:

Frederick J. Day, Esq.
1110 N. Glebe Road, Suite 500
Arlington, VA 22201-5720
(703) 528-5115

Date: March 25, 1994

Appendix: Text of Proposed Rule Changes

APPENDIX

It is requested that the Federal Communications Commission amend Parts 13 and 90 of its Rules and Regulations as shown:

I. Section 13.7 is proposed to be amended by revising paragraph (b) and adding a new subparagraph (b)(10) as follows:

§ 13.7 Classification of operator licenses and endorsements.

(a) * * *

(b) There are ten types of commercial radio operator licenses, certificates and permits (licenses). The license's ITU classification, if different from its name, is given in parenthesis.

* * * * *

(10) PLMRS Radio Maintainer's License (technical portion of the first-class radio electronic certificate).

* * * * *

II. Section 13.9 is proposed to be amended by revising paragraphs (b) and (c) as follows:

§ 13.9 Eligibility and application for new license or endorsement.

* * * * *

(b)(1) Each application for a new General Radiotelephone Operator License, Marine Radio Operator Permit, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, Ship Radar Endorsement, Six Months Service Endorsement, GMDSS Radio Operator's License, GMDSS Radio Maintainer's License or PLMRS Radio Maintainer's License must be made on FCC Form 756.

* * * * *

(c) Each application for a new General Radiotelephone Operator License, Marine Radio Operator Permit, First Class Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, Ship Radar Endorsement, Six Months Service Endorsement, GMDSS Radio Operator's License or GMDSS Radio Maintainer's License must include an original PPC(s) from a COLEM(s) showing that the applicant has passed the necessary

examination element(s). Each application for a PLMRS Radio Maintainer's License must include a duplicate copy of a certificate issued by an organization or committee representative of users in the private land mobile services attesting that the applicant is technically qualified to perform transmitter installation, maintenance and repair duties in the private radio services. The applicant must submit the application to the address specified in Part 1 of the rules.

* * * * *

III. Section 13.15 is proposed to be amended by revising paragraph (b) as follows:

§ 13.15 License term.

* * * * *

(b) General Radiotelephone Operator Licenses, Restricted Radiotelephone Operator Permits, Restricted Radiotelephone Operator Permits-Limited Use and PLMRS Radio Maintainer's Licenses are normally valid for the lifetime of the holder. The terms of all Restricted Radiotelephone Operator Permits issued prior to November 15, 1953, and valid on that date, are extended to the lifetime of the operator.

IV. Part 90 is proposed to be amended by revising Section 90.433 as follows:

§ 90.433 Operator requirements.

(a) No operator license or permit is required for the operation of stations licensed under this part.

* * * * *

(c) The station licensee shall be responsible for the proper operation of the station at all times and is expected to provide observations, servicing and maintenance as often as may be necessary to ensure proper operation. All adjustments or tests during or coincident with the installation, servicing or maintenance of the station should be performed by or under the immediate supervision and responsibility of a person who has been: (1) certified as technically qualified to perform transmitter installation, operation, maintenance and repair duties in the private land mobile services and fixed services by an organization or committee representative of users in those services; and (2) licensed to perform transmitter installation, maintenance and repair duties by the Commission.